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10/076,950	02/12/2002	Ian Zenoni	043978-035000	3404

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EXAMINER	
HOSSAIN, FARZANA E	

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2623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/076,950	ZENONI, IAN	
	Examiner	Art Unit	
	Farzana E. Hossain	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 August 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24 and 33-40* is/are pending in the application.

4a) Of the above claim(s) *8-24 and 33-40* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is responsive to communications filed 08/08/2007 and 02/21/2007. Claims 1 and 5 were amended 02/21/2007. Claims 2-4 and 6-7 are original. Claims 8-24 and 33-40 are withdrawn by this office action (see below). Claims 25-32 are cancelled.

Response to Election/Restrictions

2. Applicant's election with traverse of Claims 1-7 in the reply filed on 08/08/2007 is acknowledged. The traversal is on the ground(s) that the examiner did not show that the claims are not drawn towards distinct features and all should be drawn towards the same class and subclass. The applicant further argues that that MPEP § 804.04(e) requires characterization of the six distinct species and the recitation of claim language is improper.

This is not found persuasive because the six sets of claims (1: Claims 1-7) are directed to different species. Claims 1-7 are directed towards a time code signal to an address generator that decodes the time code signal and generates a video signal address and then encodes the stream with indicators. As provided by each of the other species are drawn to separate distinct features found in all different figures. The search areas may be similar but the six species have distinct features, which require

searches for specific elements causing a serious burden on the examiner to find each distinct specie.

MPEP § 809.02 requires actions the following actions to be taken:

(A) Identify generic claims or indicate that no generic claims are present. See MPEP § 806.04(d) for definition of a generic claim.

(B) Clearly identify each (or in aggravated cases at least exemplary ones) of the disclosed species, to which claims are to be restricted. The species are preferably identified as the species of figures 1, 2, and 3 or the species of examples I, II, and III, respectively. In the absence of distinct figures or examples to identify the several species, the mechanical means, the particular material, or other distinguishing characteristic of the species should be stated for each species identified. If the species cannot be conveniently identified, the claims may be grouped in accordance with the species to which they are restricted. Provide reasons why the species are independent or distinct.

(C) Applicant should then be required to elect a single disclosed species under 35 U.S.C. 121, and advised as to the requisites of a complete reply and his or her rights under 37 CFR 1.141.

MPEP § 806.04(e) (applicant mistakenly typed 804.04(e)) discloses Claims are definitions or descriptions of inventions. Claims themselves are never species. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a specific species claim). Alternatively, a claim may encompass two or more of the disclosed embodiments (and thus be designated a generic or genus

claim. Species always refer to the different embodiments of the invention. Species may be either independent or related as disclosed.

The examiner has followed the MPEP as required and have pointed to the specific figures to define the distinct species and the elements of the figures to describe the distinct features of each of the figures.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 8-24 and 33-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 08/13/2007.

Response to Arguments

4. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

5. This application contains claims directed to the following patentably distinct species:

Specie (1: Claims 1-7) is the method and system of generating and inserting an indicator into a video stream using a time code generator, indicator generator, address generator and database (Figure 3).

Specie (2: Claims 8-11) is the method of inserting indicators in a time encoded video stream (Figure 5).

Specie (3: Claims 12-16) is the method and system of inserting indicators in a time encoded video stream including a time code reader and a comparator (Figure 6).

Specie (4: Claims 17-22) is the method and system of manually inserting indicators in a video stream (Figure 7).

Specie (5: Claims 23, 24) is the method and system of automatically inserting indicators in a video stream (Figure 8).

Specie (6: Claims 33-40) is the method and system of generating an enhanced video signal in response to an indicator encoded in a video stream with an indicator decoder and look up table address (Figure 11).

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

There is all examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of

search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to he examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the

prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Block (US 7,200,852).

Regarding Claims 1 and 5, Block discloses a method of generating and inserting an indicator into a video stream and a system for encoding a video stream with indicators (Figure 1, Figure 2, 260) comprising;

a time code generator or synchronization unit that generates a time code signal that is synchronized with the video stream and provides a numerical indication of the

location of the video stream that corresponds to a video signal address of said video stream (Column 4, lines 55-67, Column 5, lines 1-15, 62-67, Columns 6-8, Tables 1 and 2);

applying the time code signal to an address generator that receives the time code signal, decodes the time code signal and generates the corresponding video signal address or the synchronization unit provides the label editor with the time code signal after detection of the synchronization pulse and to allow the label information generator to generate the address of the location of the video signal via a frame specific location or appropriate location in the video stream during the a vertical retrace interval (Column 4, lines 55-67, Column 5, lines 1-15, 62-67 Columns 6-8, Tables 1 and 2). It is necessarily included that decoding a time code signal is to extract the meaning of the location from the synchronization pulse for the correct place in the video stream which includes frame specific information in order to control the program signals transmitted to the viewer (Column 5, lines 51-54, Table 2).

applying the corresponding video signal address to a database or applying the frame information or location in video signal to the label editor which creates labels (Figure 2, 160, 170); and

an indicator generator that generates said indicators of said video stream and generating the indicators at an end user site or ratings, keywords and subject information are generated by the viewer (Column 4, lines 37-54, Columns 6-8, Tables 1 and 2). It is necessarily included that the label editor includes a database or an organized body of related information for storing the information label structure, which

the label editor generates the transmitted information label (TIL) to encode with video stream (Figure 1, Columns 6-8, Tables 1 and 2).

Block discloses the label editor generates an indicator signal in response to said corresponding video signal address and stored indicators (Figure 2, TIL);

an encoder that encodes said video stream with said indicator signal to generate a video stream encoded with said indicators (Figure 2, 260, Column 11, lines 37-62);

a recognition device that receives user profile and preference data and said video stream encoded with said indicators and compares the user profile and preference data with the video stream encoded with said indicators (Figure 1, 20, 110, 60, Figures 5-7); and

a display device that displays said video stream encoded with said indicators based on the results of the comparison performed by the recognition device (Column 17, lines 3-33).

Regarding Claims 2 and 6, Block discloses all the limitations of Claims 1 and 5 respectively. Block discloses step of encoding the video stream with indicators comprises encoding the video stream with content indication tags (Columns 6-8, Tables 1 and 2).

Regarding Claims 3 and 7, Block discloses all the limitations of Claims 1 and 5 respectively. Block discloses the step of encoding the video stream with indicators comprises encoding the video stream with segment division markers or scenes (Figure 14).

Regarding Claim 4, Block discloses all the limitations of Claim 1. Block discloses the step of generating the indicators is performed by video recognition of content of the video stream (Figure 1, 100, 110 122, Figure 5, 50, 110, 100).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH
October 5, 2007

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